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TOT: 080631Z MAY 90

SUBJECT: [REDACTED] NEW YORK TIMES ARTICLE ON
JESUIT CASE

1. [REDACTED]

[REDACTED] TEXT FROM 7 MAY 1990 NEW YORK TIMES ARTICLE.

2. BEGIN QUOTE: CRUCIAL EVIDENCE VANISHES IN CASE OF 6 SLAIN JESUITS. A SETBACK IN EL SALVADOR. FOUR SOLDIERS TIED TO INQUIRY ARE TRANSFERRED ABROAD - DISMAY GROWS IN U.S., BY LINDSEY GRUSON. SAN SALVADOR, MAY 6. SEVERAL VITAL PIECES OF EVIDENCE THAT COULD HELP CONVICT A COLONEL CHARGED WITH THE SLAYING OF SIX JESUIT PRIESTS AND TWO WOMEN IN NOVEMBER HAVE DISAPPEARED, SALVADORAN SUPREME COURT AND JUDICIAL OFFICIALS SAY.

COURT AUTHORITIES SAID AT LEAST FOUR SOLDIERS WITH POTENTIALLY INCRIMINATING EVIDENCE WERE SENT ABROAD TO STUDY AND WERE UNAVAILABLE TO TESTIFY. TWO OTHER MAJOR WITNESSES HAVE FAILED TO APPEAR AS REQUIRED, THE OFFICIALS SAID.

SENIOR JUDICIAL OFFICIALS SAID THE DISAPPEARANCE OF THE EVIDENCE AND THE FOUR SOLDIERS' TRANSFER ABROAD WERE A SEVERE AND POSSIBLY FATAL BLOW TO AN EXTREMELY WEAK CASE AGAINST THE COLONEL, GUILLERMO ALFREDO BENAVIDES MORENO.

COLONEL'S DIARY MISSING

THE LOSS OF EVIDENCE ALSO MAKE IT MORE DIFFICULT TO INVESTIGATE ALLEGATIONS THAT OTHER SENIOR COMMANDERS WERE INVOLVED IN OR TRIED TO COVER UP THE KILLING OF THE JESUITS, THEIR COOK AND HER DAUGHTER, SAID THE OFFICIALS, WHO ASKED NOT TO BE IDENTIFIED.

ONE PIECE OF MISSING EVIDENCE IS COL. BENAVIDES DIARY,

[REDACTED]

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WHICH JUDICIAL OFFICIALS HOPED WOULD BE USEFUL IN THE CASE AGAINST HIM. LIKE ALMOST ALL SENIOR SALVADORAN COMMANDERS, COL. BENAVIDES ALWAYS CARRIED A NOTEBOOK IN WHICH HE KEPT NOTES OF HIS ACTIVITIES AND OF THE MEETINGS HE ATTENDED. BUT THE DIARY HAS DISAPPEARED, THE OFFICIALS SAID.

THEY SAID THEY REQUESTED THE LOG OF A MILITARY SCHOOL FROM THE TRIBUNAL THAT INVESTIGATED THE SLAYING. BUT THE SUPREME COURT SAID IN A STATEMENT THAT THE TRIBUNAL REPLIED THAT THE LOG, IN WHICH THE NAME OF ANYONE ENTERING OR LEAVING THE CAMPUS SHOULD HAVE BEEN RECORDED, HAD ALSO BEEN LOST. COL. BENAVIDES WAS THE HEAD OF THE MILITARY SCHOOL AND IN CHARGE OF THE ZONE WHERE THE KILLINGS TOOK PLACE.

FOUR SOLDIERS SENT ABROAD

THE FOUR SOLDIERS ON GUARD DUTY AT THE SCHOOL ON THE NIGHT OF THE SLAYINGS HAVE BEEN SENT ABROAD TO STUDY. THAT HAS MADE IT ALL BUT IMPOSSIBLE TO FIND OUT WHO WAS AT THE CAMPUS THAT NIGHT, A SETBACK TO EFFORTS TO INVESTIGATE WHETHER OTHER COMMANDERS BESIDES COL. BENAVIDES WERE INVOLVED IN THE KILLINGS.

THE JUDICIAL OFFICIALS SAID THE DISAPPEARANCE OF THE EVIDENCE IS THE LATEST IN A SERIES OF OBSTACLES PLACED IN THE WAY OF THEIR INVESTIGATION. THEY SAID THE AUTHORITIES HAD PROVIDED ALMOST NO COOPERATION AND AT TIMES APPEARED TO BE DELIBERATELY OBSTRUCTIVE.

THE DISCLOSURE THAT EVIDENCE IS MISSING COMES AS IMPATIENCE WITH THE SLOW PACE OF THE INVESTIGATION IS BUILDING IN THE UNITED STATES CONGRESS. IT IS LIKELY TO SPUR EFFORTS TO CUT UNITED STATES MILITARY AID TO EL SALVADOR, WHICH AMOUNTS TO \$85 MILLION THIS YEAR, ALMOST A THIRD OF THE COUNTRY'S DEFENSE BUDGET.

THE JUDICIAL AUTHORITIES, WHO UNTIL NOW HAVE BEEN EXTREMELY RELUCTANT TO DISCUSS THE CASE IN ANY DETAIL, DISCLOSED THE LOSS OF THE EVIDENCE AND THE SOLDIERS' TRANSFER TO AN EFFORT TO COUNTERACT CRITICISM HERE AND ABROAD THAT THEY HAVE BEEN INSUFFICIENTLY AGGRESSIVE IN THEIR INQUIRY.

DEMOCRATS CRITICIZE JUDGE

IN THE LATEST CRITICISM, A PANEL OF HOUSE DEMOCRATS THAT HAS BEEN MONITORING THE INVESTIGATION LAST WEEK PLACED MOST OF THE BLAME FOR ITS SLOWNESS ON THE JUDGE IN CHARGE,

RICARDO A. ZAMORA. 'THE JUDGE IS SITTING ON HIS HANDS,' SAID REPRESENTATIVE BUD SHUSTER, A PENNSYLVANIA REPUBLICAN WHO RECENTLY VISITED EL SALVADOR WITH THE PANEL. HIS VIEWS WERE ECHOED BY STATE DEPARTMENT AND OTHER BUSH ADMINISTRATION OFFICIALS. ONE OFFICIAL SAID JUDGE ZAMORA ILLUSTRATED 'THE FUNDAMENTAL WEAKNESSES OF THE SALVADORAN JUDICIAL SYSTEM.'

BUT THE JUDGE, WHO HAS HANDLED SOME OF THE MOST SENSITIVE CASES IN EL SALVADOR IN RECENT YEARS, REJECTED THE CONTENTION THAT HE HAS BEEN LESS THAN VIGOROUS IN THE INVESTIGATION. HE DECLINED TO DISCUSS THE CASE IN DETAIL. BUT JUDICIAL OFFICIALS SAID THE INVESTIGATION HAD BEEN SLOWED BY THE AUTHORITIES' LACK OF COOPERATION AND BY THE POLITICAL IMPLICATIONS OF THE CASE. THE OFFICIALS SAID JUDGE ZAMORA WAS CAUGHT BETWEEN THOSE WHO WANTED HIM TO HURRY SO THAT HE MADE A MAJOR MISTAKE AND THOSE WHO WANTED HIM TO SLOW DOWN SO THAT THE CASE COULD BE FORGOTTEN.

"I'M WALKING THE RAZOR'S EDGE," JUDGE ZAMORA SAID IN HIS ONLY ON-THE-RECORD COMMENTS ON THE INVESTIGATION.

U.S. AID COULD BE AT STAKE

THE CASE IS CONSIDERED THE MOST DELICATE IN SALVADORAN JUDICIAL HISTORY AND A VITAL TEST OF UNITED STATES-BACKED EFFORTS TO FORTIFY DEMOCRATIC INSTITUTIONS AND PUT THE ARMED FORCES UNDER CIVILIAN CONTROL AND FORCE THEM TO RESPECT HUMAN RIGHTS. THE MILITARY HAS LONG HAD A DE FACTO VETO OVER ALMOST ALL MAJOR GOVERNMENT DECISIONS.

AT STAKE, AMERICAN OFFICIALS SAY, MAY BE THE FUTURE OF UNITED STATES AID, WHICH SUSTAINS THE ALL-BUT-BANKRUPT SALVADORAN GOVERNMENT AND ACCOUNTS FOR MORE THAN HALF THE BUDGET. PRESIDENT ALFREDO CRISTIANI SAID LAST WEEK THAT EVEN

WHERE'S THE COLONEL'S DIARY?
AND WHY WERE 4 MEN TRANSFERRED?

A SMALL CUT IN MILITARY AID WOULD HAVE A BROAD EFFECT THROUGH THE COUNTRY. HE SAID IT WOULD HEIGHTEN THE INTRANSIGENCE OF LEFTIST REBELS AT THE COMING PEACE TALKS AND FORCE A REDUCTION IN EL SALVADOR'S ALREADY STRAINED SOCIAL SERVICES.

THE SLAIN PRIESTS, THEIR COOK AND HER DAUGHTER WERE KILLED WITH HIGH-POWERED RIFLES BEFORE DAWN ON NOV. 16 AT THE JESUIT-RUN CENTRAL AMERICAN UNIVERSITY ON THE OUTSKIRTS OF THE CAPITAL. AT FIRST, MANY GOVERNMENT OFFICIALS AND ARMY

COMMANDERS TRIED TO BLAME THE REBELS, WHO HAD BEGUN A MAJOR OFFENSIVE IN THE CAPITAL THE PREVIOUS WEEK.

COLONEL BENAVIDES AND SEVEN LOWER-RANKING OFFICIALS WERE CHARGED WITH THE SLAYINGS IN JANUARY. BUT THERE IS STRONG DOUBT WHETHER THE COLONEL CAN BE SUCCESSFULLY PROSECUTED. THE EVIDENCE AGAINST HIM IS LARGELY LIMITED TO STATEMENTS BY SUBORDINATES THAT HE ORDERED THE KILLINGS. BUT CO-DEFENDANTS HERE ARE PROHIBITED FROM TESTIFYING AGAINST EACH OTHER. AND IT IS UNCLEAR WHETHER CHARGES CAN BE DROPPED AGAINST OTHER DEFENDANTS IN RETURN FOR THEIR TESTIMONY.

WESTERN DIPLOMATS WHO HAVE CLOSELY MONITORED THE CASE SAID NO CONVINCING EVIDENCE HAD BEEN UNCOVERED TO IMPLICATE OTHER OFFICERS BESIDES COLONEL BENAVIDES, THE HIGHEST-RANKING OFFICER EVER CHARGED IN A HUMAN RIGHTS CASE HERE. THE DIPLOMATS SAID THE ARMY INVESTIGATION, ESPECIALLY THE FORENSIC WORK, WAS EXTREMELY WELL DONE--BUT ONLY AS FAR AS IT WENT.

TWO MEETINGS NOT INVESTIGATED

THE DIPLOMATS SAID THERE HAD BEEN NO SERIOUS INVESTIGATION OF ALLEGATIONS OF AN ATTEMPTED COVER-UP BY THE ARMY, WHICH IS RUN BY A TIGHTLY KNIT GROUP OF OFFICERS. THEY ALSO CRITICIZED THE FAILURE TO INVESTIGATE WHAT HAPPENED AT TWO MEETINGS--ONE HELD BY SENIOR COMMANDERS HOURS BEFORE THE KILLINGS, THE OTHER SEVERAL HOURS AFTERWARD.

THE FIRST MEETING IS VITAL IN DETERMINING WHETHER COLONEL BENAVIDES ACTED UNDER ORDERS, AS HE HAS SOMETIMES SAID TO FRIENDS AND FAMILY MEMBERS, OR WHETHER HE WENT BEYOND INSTRUCTIONS TO REDOUBLE ATTACKS ON REBEL STRONGHOLDS AND COMMANDERS, AS CONTENDED BY THE HIGH COMMAND. JUDICIAL AUTHORITIES, WHO HAVE YET TO QUESTION MANY PARTICIPANTS IN THE MEETING, HAD HOPED THAT COLONEL BENAVIDES'S MISSING DIARY WOULD CLEAR UP THE DISPUTE.

SINCE THE SLAYINGS, IT HAS BECOME CLEAR THAT SENIOR COMMANDERS AT THE MEETING WERE CLOSE TO PANICKING. SOME DIPLOMATS SAID THAT AND A DECISION TO TAKE THE WAR TO THE GUERRILLAS MAY HAVE CREATED THE IMPRESSION THAT THE KILLING OF THE JESUITS WOULD BE TOLERATED, EVEN IF NOT DIRECTLY ORDERED. OTHER DIPLOMATS AND SALVADORAN OFFICIALS SAY THEY BELIEVE THE SLAYING OF THE JESUITS, WHOM THE EXTREME RIGHT CONSIDERED REBEL SYMPATHIZERS WAS DIRECTLY ORDERED.

IN THE SECOND MEETING, A ROUTINE REUNION OF

INTELLIGENCE OFFICERS, PARTICIPANTS REPORTEDLY CHEERED WHEN A JUNIOR OFFICER INTERRUPTED WITH NEWS OF THE SLAYINGS. DIPLOMATS SAY IT IS ALMOST UNIMAGINABLE THAT THE HIGH COMMAND DID NOT KNOW OF THE ARMY'S INVOLVEMENT WITHIN HOURS OF THE SLAYINGS. AN INVESTIGATION OF THE MEETING IN THE NATIONAL INTELLIGENCE DIRECTORATE COULD HELP SHOW WHO KNEW WHAT AND WHEN THEY KNEW IT. AND THAT, THE DIPLOMATS SAY, COULD SHOW IF THERE WAS AN ATTEMPTED COVER-UP. END OF QUOTE.

FOLLOWING IS CAPTION OF PHOTO: "WITH IMPORTANT WITNESSES UNAVAILABLE AND THE DISAPPEARANCE OF VITAL EVIDENCE, HOPE IS FADING FOR THE CONVICTION OF A SALVADORAN ARMY COLONEL IN THE KILLING LAST YEAR OF SIX PRIESTS AND TWO WOMEN. AS A RESULT, MOMENTUM IS BUILDING IN CONGRESS TO CUT MILITARY ASSISTANCE TO THE COUNTRY. YESTERDAY WAS THE DAY OF THE SALVADORAN SOLDIER, AND AS PART OF THE CELEBRATION, RECRUITS WERE INDUCTED IN THE ARMY."

END OF MESSAGE